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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,433	07/21/2003	Brian K. Ellenberger	71198-0064	1432
20915	7590	08/04/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			CHAPMAN, JEANETTE E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,433

Applicant(s)

ELLENBERGER, BRIAN K.

Examiner

Chapman E. Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-111 is/are pending in the application.
- 4a) Of the above claim(s) 55-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54, 86-103 and 105-111 is/are rejected.
- 7) ☒ Claim(s) 104 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

SERIAL NO.: 10/604433
ART UNIT: 3635

The restriction requirement mailed 4/8/2005 has been hereby vacated in view of the telephone election that was inadvertently forgotten. This oversight was brought to the examiner's attention in June of 2005. An office action has therefore been drafted in accordance with the telephone election. The examiner apologizes for the inconvenience.

Applicant elected group I directed to the dormer/the dormer assembly claims 1-54 and 86-111 during a telephone interview with Mr. Tom Williams on February 2005. Claims 55-85 have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-24, 85-90, 100-102, 105-111 are rejected under 35 U.S.C. 102(b) as being anticipated by Sloditskie et al. discloses a dormer 12 for attachment to a roof comprising:

- A girder frame having a pair of elongated rails wherein the girder frame is configured to be in register with an opening in an angled roof portion of the structure when the girder frame is mounted to the roof portion of a structure; See annotations on patent copy

SERIAL NO.: 10/604433

ART UNIT: 3635

- A front frame mounted to the girder frame; the front frame is configured to be positioned in a generally vertical orientation when the girder frame is mounted to the roof portion; See annotations on patent copy
- A top frame 6 mounted to the front frame 7; the top wall 7 is configured to form a roof for the dormer; see figure 2; see annotations on patent copy
- The girder frame, the front frame and the top frame are pivotally mounted to one another between a first, lowered position and a second, finished position; See figures 2-5
- The front frame is pivotally mounted to the girder frame between the first lowered position and the second finished position; see figures 2-5; the front frame positioned in the vertical orientation when the girder frame is positioned in the finished and erected position
- The top frame is pivotally mounted to the girder frame between the above first and second position; see figures 2 and 5
- The top frame is pivotally mounted to the front frame between the first and second positions;
- The top frame comprises
 - A plurality of first truss members, see annotations on patent copy
 - A plurality of second truss members, see annotations on patent copy
 - The first and the second truss members are pivotally moveable relative to the top frame between first and second positions; see figure 3 and annotations on figure 5 patent copy;

- The top frame can be easily transported in a low volume when the first and second truss members are positioned in the first lowered position
- A top frame ridge board 20. The first and second truss members are fixedly mounted to the top frame ridge board when the first and second truss members are moved to the second raised position; see figures 3 and 5
- A finishing frame 30/ceiling joist mounted to the top frame in the second finished position and the roof portion of the structure to form a transition between the top frame and the roof portion of the structure
- Side frames mounted between an upper surface of the girder frame and a lower portion of the front and top frames; the side frames form vertical side walls 42/54/56 of the dormer; see annotations on patent copy
- The claims are directed to an article and the manner of forming the dormer was not elected. When the side panels are joined to the rest of the unit is not significant to claims directed to the structure as the method limitation does not effect the structure. Nevertheless, SL discloses the side frame is mounted on to the dormer after all components have been raised to the second condition; see column 3
- Knee wall chord 40 for holding the dormer assembly in the second finished position; the knee wall chord is pivotally mounted to the girder frame at a central area between the top and front frames; see figure 3 and column 3, lines 1-20

SERIAL NO.: 10/604433

ART UNIT: 3635

- The girder frame is interconnected to the roof, the front frame is interconnected to the girder and the top frame is interconnected to the girder frame to form a roof
- The front frame is pivotally mounted to the lower portion of the girder frame
- The top frame is pivotally mounted to an upper portion of the girder frame

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallie (French - 2674273) in view of Sloditskie et al (SL)(5209030). Mallie discloses a dormer 10 for attachment to a roof comprising:

- A girder frame having a pair of elongated rails 2,3 wherein the girder frame is configured to be in register with an opening in an angled roof portion of the structure when the girder frame is mounted to the roof portion of a structure
- A front frame mounted to the girder frame; the front frame is configured to be positioned in a generally vertical orientation when the girder frame is mounted to the roof portion

SERIAL NO.: 10/604433

ART UNIT: 3635

- A top frame 6 mounted to the front frame 7; the top wall 7 is configured to form a roof for the dormer; see figure 2

Mallie lacks the frame parts pivotally joined together. Sloditskie discloses a girder frame, the front frame and the top frame are pivotally mounted to one another between a first, lowered position and a second, finished position. See figures 2-5. It would have been obvious to one of ordinary skill in the art to pivotally join frame members to one another to facilitate making the dormer structure and shipping the unit to the desired location as needed as shown by SL.

Claims 25-54 and 91-99, 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over SL in view of Ganescu (5094059). SL has been considered as described above in the 35 USC 102 rejection. The dormer and frame assembly of SL admits to frame parts being pivotally connected by the disclosure does not speak specifically of the pivot structure including a hinge. Ganescu disclose a hinged roof truss that is collapsible. Ganescu discloses a girder frame 4 to be interconnected with the hinge 24 and to be located in register with an opening in the roof portion of the structure between first, lowered position and a second raised position. See figures 1-2. It would have been obvious to one of ordinary skill in the art to make the frame pivotable using the hinge members of Ganescu to fold members compactly for transportation.

Claim(s) 104 (is/are) objected to as depending upon a rejected base claim but would be considered allowable if amended to include the base claim and any intervening claim.

SERIAL NO.: 10/604433
ART UNIT: 3635

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeanette Chapman
Primary Examiner

SERIAL NO.: 10/604433
ART UNIT: 3635

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- A girder frame having a pair of elongated rails wherein the girder frame is configured to be in register with an opening in an angled roof portion of the structure when the girder frame is mounted to the roof portion of a structure; See annotations on patent copy
- A front frame mounted to the girder frame; the front frame is configured to be positioned in a generally vertical orientation when the girder frame is mounted to the roof portion; See annotations on patent copy
- A top frame 6 mounted to the front frame 7; the top wall 7 is configured to form a roof for the dormer; see figure 2; see annotations on patent copy

SERIAL NO.: 10/604433

ART UNIT: 3635

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SERIAL NO.: 10/604433
ART UNIT: 3635

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SERIAL NO.: 10/604433
ART UNIT: 3635

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SERIAL NO.: 10/604433

ART UNIT: 3635

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SERIAL NO.: 10/604433
ART UNIT: 3635

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Jeannette Chapman
Primary Examiner